



CONGRESSMAN
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McEACHIN**
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Congressional District



LEGISLATION

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Funding Attorneys for Indigent Removal (FAIR) Proceedings Act

Section 1: SHORT TITLE

- The title of this bill is the “Funding Attorneys for Indigent Removal (FAIR) Proceedings Act”.

Section 2: IMPROVING IMMIGRATION COURT EFFICIENCY AND REDUCING COSTS BY INCREASING ACCESS TO LEGAL INFORMATION.

- Subsection (a): Appointment of Counsel in Certain Cases; Right to Review Certain Documents in Removal Proceedings
 - Grants authority to the Attorney General to appoint or provide counsel at the government’s expense.
 - Ensures no removal proceedings can advance without the Department of Homeland Security (DHS) providing (absent a waiver) a complete copy of all relevant documents maintained by the government with respect to transactions including the immigration process (commonly referred to as the ‘A-file’) and any other relevant documents DHS has obtained from other government agencies.
- Subsection (b): Clarification Regarding the Authority of the Attorney General to Appoint Counsel to Aliens in Immigration Proceedings.
 - Clarifies that the Attorney General may appoint or provide counsel to aliens in any proceeding conducted under sections 235, 236, 238, 240, 241, or any other section of the Immigration and Nationality Act.
 - Requires that the Secretary of Homeland Security ensure aliens have access to counsel inside all immigration and border facilities.
- Subsection (c): Appointment of Counsel for Children and Vulnerable Aliens
 - Requires the Attorney General to appoint or provide counsel, at government expense if necessary, in any proceedings where the alien is considered to be a child, a vulnerable individual (i.e. a person with a disability or a victim of abuse, torture, or violence), an individual whose income is at or below 200 percent of the federal poverty level, or an individual whose circumstances are such that appointment of counsel is necessary to help ensure fair adjudication.
 - Extends the appointment of counsel in consolidated cases to other aliens within the case if they do not have counsel.
 - Authorizes appropriation of such sums as may be necessary for implementing these policies.
 - Requires the Attorney General to promulgate regulations to implement these policies.

Section 3: ACCESS BY COUNSEL AND LEGAL ORIENTATION AT DETENTION FACILITIES.

- Requires the DHS Secretary to facilitate access to counsel for all aliens detained in facilities under the supervision of U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection, including providing information on legal services programs.

- Requires the DHS Secretary to establish procedures to ensure legal orientation programs are available for all detained aliens to inform them of their rights or any other relevant information.

Section 4: REPORT ON ACCESS TO COUNSEL

- Requires the DHS Secretary, in consultation with the Attorney General, to prepare and submit a report to the Senate and House Committees on the Judiciary, no later than December 31 of each year, describing the extent to which aliens have been provided counsel under this Act.

Section 5: MOTIONS TO REOPEN

- Ensures that if the Attorney General fails to appoint counsel, no limitation of motions to reopen shall apply and the filing of such a motion shall stay removal of an alien.

Section 6: SUPPLEMENTAL SURCHARGE

- Establishes a general fund of the Treasury to be known as the ‘Immigration Counsel Account’ in which there will be offsetting receipts in the amount required to implement this Act, and provides for a biennial report on the status of that account.
- Enacts a \$10 additional surcharge on any fee which is charged and collected pursuant to the Immigration and Nationality Act or any other immigration laws.

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